

Message Text

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70

ACTION ARA-10

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SUBJECT: ADDITIONAL BACKGROUND REGARDING CHILEANS ELIGIBLE
FOR EXILE DECREES

REFS: (A) SANTIAGO 7576, (B) FIMBRES (ARA/BC)/POPPER LETTER
AUGUST 6

1. SUMMARY: FOREIGN MINISTRY DATA GATHERED FOR A CIRCULAR
DIPLOMATIC NOTE NOW APPEARS TO HAVE BEEN THE ORIGIN OF PRESS
REPORTS FROM SANTIAGO THAT 250 CHILEANS CONVICTED OF
POLITICAL/SECURITY OFFENSES WOULD HAVE THEIR SENTENCES
COMMUTED TO EXILE IF THEY COULD OBTAIN VISA FROM ANOTHER
COUNTRY. ON A RELATED SUBJECT, WE HAVE CONDUCTED A FURTHER
STUDY OF THE 197 PERSONS WHOSE SENTENCES ARE BEING COMMUTED,
NAMED ON THE LIST PROVIDED THE DEPARTMENT BY THE CHILEAN
EMBASSY AND TRANSMITTED BY REF B. THE GOC, ICEM AND EMBASSY
PAROLE PROGRAM TABULATE THEIR DATA DIFFERENTLY, MAKING
RECONCILIATION DIFFICULT. OUR ANALYSIS INDICATES THAT THE GOC
IS SERIOUS ABOUT IMPLEMENTING THE COMMUTATION PROCEDURE AND
THAT IT IS WILLING TO RELEASE A NUMBER OF PEOPLE THE USG
CANNOT ACCEPT. IN EXPLOITING THESE POINTS, HOWEVER, THE GOC
SOMEWHAT OVERSTATED ITS CASE SINCE IT APPEARS THAT MOST OF
THE 250 WILL RECEIVE VISAS FROM SOME COUNTRY EVENTUALLY.
END SUMMARY.

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2. ON AUGUST 16 THE FOREIGN MINISTRY SENT A CIRCULAR NOTE INFORMING EMBASSIES IN SANTIAGO OF THE CURRENT STATUS OF PERSONS DETAINED IN WHAT WE CALL CATEGORIES I, II AND III, RESPECTIVELY, I.E., HELD WITHOUT TRIAL, BEING TRIED, AND CONVICTED. THE NOTE TABULATES THE OUTCOME OF CATEGORY III CASES SUBMITTED TO THE COMMISSION CREATED UNDER DECREE LAW 504, WHICH CONSIDERS COMMUTATION OF CERTAIN SENTENCES HANDED DOWN BY MILITARY COURTS. IT SHOWS THAT AS OF JUNE 30, 524 PERSONS HAD ALREADY LEFT CHILE AFTER THEIR SENTENCES HAD BEEN COMMUTED INTO EXILE; THE CASES OF 250 HAD BEEN APPROVED WITH THE APPLICANTS AWAITING VISAS, AND 270 OTHER CASES WERE "IN PROCESS."

3. THE INTER-GOVERNMENTAL COMMISSION FOR EUROPEAN MIGRATION (ICEM), WHICH ACTUALLY ARRANGES VISAS AND TRAVEL FOR BENEFICIARIES OF DECREE 504, TABULATES ITS DATA DIFFERENTLY. AS OF LATE AUGUST, ITS FIGURES SHOWED THAT 84 PEOPLE HAD BOTH VISA AND DECREE AND WERE AWAITING ONLY PASSPORTS; 46 HAD A VISA BUT NEITHER DECREE NOR PASSPORT; 41 (ONLY ONE ON THE CHILEAN EMBASSY LIST) HAD DECREES BUT NO DESTINATION; AND 244 WERE WITHOUT DESTINATION AND DECREE. THIS GIVES A TOTAL OF 415 CASES STILL IN CHILE VIS-A-VIS FOREIGN MINISTRY'S TOTAL OF 520. WE NOTE THAT 100 PERSONS APPARENTLY DEPARTED CHILE BETWEEN JUNE 30 (WHEN FOREIGN MINISTRY REPORTED 524 HAD ALREADY LEFT) AND LATE AUGUST (WHEN ICEM REPORTS 626 HAD DEPARTED). THUS THE TOTAL NUMBER DEPARTED, APPROVED OR UNDER CONSIDERATION CHECKS -- 1,044 PER FOREIGN MINISTRY AND 1,041 PER ICEM.

4. WE CANNOT ACCURATELY RECONCILE THE TWO SETS OF FIGURES. ICEM POINTS OUT THAT ALTHOUGH THE GOC USED TO ISSUE EXILE DECREES TO PEOPLE IN CATEGORY III, WHO DID NOT HAVE GUARANTEED DESTINATIONS, THEY NO LONGER DO SO. THE COMMISSION NOW ADVISES ICEM WHEN IT HAS FAVORABLY DECIDED A CASE AND STARTS PREPARATION OF THE DECREE -- IT IS NOT FORMALLY ISSUED, HOWEVER, UNTIL ICEM CERTIFIES THAT A VISA IS AVAILABLE. (THUS THE CHILEAN EMBASSY MESSAGE IS TECHNICALLY IN ERROR WHEN IT SPEAKS OF "COMPLETELY PROCESSED" CASES.) ALL 41 OF THOSE LISTED BY ICEM AS HAVING DECREES BUT NOT DESTINATION AND SOME OF THE 244 (NO DECREE OR DESTINATION) WOULD BE AMONG LIMITED OFFICIAL USE

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THE FIGURE OF 250 IN THE FOREIGN MINISTRY NOTE. WE SPECULATE THAT SOME OF THE 100 WHO LEFT CHILE SINCE JUNE 30 ALSO WERE AMONG THOSE 250.

5. ICEM HAS THE FOLLOWING INFORMATION ON THE 197 PERSONS NAMED ON THE LIST PROVIDED THE DEPARTMENT BY THE CHILEAN EMBASSY: FOUR HAVE FINAL DECREES (ONE IS OFF TO BELGIUM, TWO HAVE ALREADY LEFT, AND ONE GOT HIS DECREE BY MISTAKE AND

STILL LACKS A VISA); FOUR WITHDREW THEIR APPLICATIONS TO LEAVE CHILE; AND 30 HAVE JUST OBTAINED VISAS TO COUNTRIES OTHER THAN THE US. ICEM IS WORKING ON ALL THE REST. ICEM DATA SHOW THAT OF THESE 197 CASES, THE US CONSIDERED 67 FOR THE PAROLE PROGRAM.

6. OUR PARALLEL CHECKS OF PAROLE PROGRAM RECORDS CLOSELY ACCORD WITH THE ICEM FIGURE. WE HAVE RECORDS ON 73 OF THE 197: 20 CASES ARE ACTIVE; 19 INACTIVE; 32 REFUSED; AND TWO ISSUED. AMONG THE 20 ACTIVE FILES, 14 WERE SUBMITTED TO WASHINGTON WITH NEGATIVE OR SPLIT RECOMMENDATIONS, AND TWO WITH POSITIVE; TWO NEED REINTERVIEWS AND TWO AWAIT SUBMISSION. OF THE 19 INACTIVE CASES, TWO LEFT FOR OTHER COUNTRIES; TWO WERE NOT QUALIFIED, AND THE REST ARE IN OUTLYING AREAS. OF 32 REFUSALS, INS REJECTED 15 (MOSTLY FOR ADMITTED POSSESSION OF ARMS OR EXPLOSIVES) AND THE REST WERE 212 (A)(28) REFUSALS. ONE OF THOSE REJECTED BY THE US SUBSEQUENTLY LEFT FOR BELGIUM.

7. WE DRAW THREE CONCLUSIONS FROM THE FOREGOING STATISTICS. FIRST: THE GOC IS SERIOUS ABOUT IMPLEMENTING THE COMMUTATION PROCEDURES OF DECREE 504. MANY HAVE LEFT, AND AS REPORTED SEPARATELY. BENEFICIARIES INCLUDE SIGNIFICANT PERSONAGES SUCH AS CARLOS CARBACHO. ONLY TEN PERCENT OF THE 1200 PETITIONS SUBMITTED HAVE BEEN REJECTED, AND WE KNOW THAT THE COMMISSION HAS RECONSIDERED SOME EARLIER REFUSALS.

8. SECOND: ICEM HAS ALREADY SCREENED THE CASES IT SUBMITS TO US. THE HIGH US RATE OF REFUSAL OF THOSE RECEIVED MAKES THE GOC'S POINT: IT IS WILLING TO COMMUTE SENTENCES OF MANY WHOM WE WILL NOT ACCEPT.

9. THIRD: WHAT THE GOC DID NOT STATE IS THAT ICEM APPEARS LIMITED OFFICIAL USE

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TO BE MANAGING ITS CASELOAD SUCCESSFULLY -- OTHER COUNTRIES APPEAR WILLING TO ACCEPT MOST OF THOSE WHO RECEIVE COMMUTED SENTENCES. THUS THE 250 FIGURE IS MISLEADING BECAUSE MANY WILL EVENTUALLY RECEIVE VISAS.
POPPER

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